

Claimant returned to the Administrative Law Judge at the preliminary hearing on December 9, 1999, requesting a change of treating physician and temporary total disability

compensation for the period September 22, 1999, through November 29, 1999. The Administrative Law Judge's Order of December 9, 1999, continued Dr. Mills as claimant's treating physician and ordered the payment of unauthorized medical expenses for the three above-named physicians. Claimant's request for temporary total disability compensation was not addressed in the December 9, 1999, Order. The Appeals Board construes this to be a denial of benefits by the Administrative Law Judge.

K.S.A. 1998 Supp. 44-551 limits the rights of a party to appeal from a preliminary order to situations where it is alleged that the Administrative Law Judge exceeded his or her jurisdiction in granting or denying the relief requested at preliminary hearing.

K.S.A. 1998 Supp. 44-534a allows appeal from preliminary hearing when dealing with specific jurisdictional issues relating to whether the claimant suffered accidental injury, whether the injury arose out of and in the course of the employee's employment, whether notice was given or timely claim made, or whether certain defenses apply. None of the above K.S.A. 1998 Supp. 44-534a issues are raised by claimant in this instance.

The issues raised by claimant deal with medical treatment and temporary total disability compensation, both well within the jurisdiction and authority of an administrative law judge at preliminary hearing. See K.S.A. 1998 Supp. 44-534a. These are not issues which can be appealed to the Workers Compensation Board from a preliminary hearing and, therefore, claimant's appeal in this matter should be dismissed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the December 9, 1999, Order of Administrative Law Judge John D. Clark remains in full force and effect, and the appeal of the claimant in this matter should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of January 2000.

BOARD MEMBER

c: David H. Farris, Wichita, KS
P. Kelly Donley, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director